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Attorney Docket No. 23452-050

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT : Douglas Walter Conmy CONFIRMATION No.: 8325
SERIAL NUMBER : 09/100,223 EXAMINER : S. M. MEINECKE DIAZ
FILING DATE : June 19, 1998 ART UNIT : 3623
FOR : ELECTRONIC CALENDAR WITH GROUP SCHEDULING

Appellant's Brief On Appeal Under 37 C.F.R. §1.192

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Sir:

Further to the Notice of Appeal filed on September 15, 2003, Appellant herewith submits Appellant's Brief on Appeal in triplicate pursuant to 37 C.F.R. §1.192(a).

In accordance with §1.17(c), a check in the amount of \$330.00 representing the fee for filing an Appeal Brief is attached. It is believed that no other fees are due in connection with this submission beyond those that otherwise may be provided for in documents accompanying this paper. However, if it is determined otherwise, the Commissioner is authorized to credit any overpayment or charge any deficiencies to the undersigned's account, Deposit Account No. 50-0311, Reference No. 23452-050.

(1) REAL PARTY IN INTEREST

Upon information and belief, International Business Machines Corporation is the real party in interest by virtue of an assignment recorded on June 19, 1998 at reel 9273, frame 0073.

(2) RELATED APPEALS AND INTERFERENCES

Based on information and belief, there are no related appeals or interferences.

(3) STATUS OF THE CLAIMS

Claims 1-39 are pending in this application.

Claims 1, 4-6, 9-12, 15, 16 and 19-39 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Hotaling et al. (U.S. Patent No. 5,124,912).

Claims 2, 3, 7, 8, 13, 14, 17 and 18 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Hotaling et al. in view of Tognazzini (U.S. Patent No. 5,790,974).

(4) STATUS OF AMENDMENTS

Appellant has not substantively amended the claims subsequent to the final Office Action dated August 14, 2002. Since the mailing of the final Office Action dated August 14, 2002, Appellant has filed a Response after Final dated January 14, 2003, a Reply under 37 C.F.R §1.111 dated April 2, 2003, and a Reply under 37 C.F.R §1.116 dated August 15, 2003. An Advisory Action mailed on September 4, 2003 was the last substantive correspondence received from the Examiner.

Appellant is currently amending claims 1-9, 11-15, 17-19, 25, 32, and 33 to provide proper antecedent basis. Appellant respectfully submits that the scope and substance of these claims remain unchanged by their amendment and therefore respectfully request the Examiner to enter these amendments for purposes of Appeal.

(5) SUMMARY OF THE INVENTION

The invention is directed to a system and method of group scheduling in a client/server environment (see page 2, lines 1-2 of the specification). The invention enables full group scheduling and mobile capabilities, integration with the World Wide Web and intranets, as well as enhanced information management capabilities (see page 2, lines 15-18 of the specification). Several views are available through the user interface to enable inspection of schedules for invitees, wherein invitees may include users, resources, or conference rooms (see page 4, lines 12-16 of the specification). Upon selection of potential invitees, the system accesses availability information from a database or through other devices (see page 7, lines 15-20 of the specification). The system then compares the list of busy times generated from the user's availability information to determine whether the user is available or not (see page 7, lines 24-25 of the specification). Various views of the scheduling information may be presented based on invitees that are available at a given time, invitees that are not available at a given time, or invitees for whom a schedule has not been found (see page 11, lines 5-14 of the specification).

(6) ISSUES

Whether claims 1, 4-6, 9-12, 15, 16 and 19-39 are improperly rejected under 35 U.S.C. §103(a) as being unpatentable over Hotaling et al.; and

Whether claims 2, 3, 7, 8, 13, 14, 17 and 18 are improperly rejected under 35 U.S.C. §103(a) as being unpatentable over Hotaling et al. in view of Tognazzini.

(7) GROUPING OF CLAIMS

Appellant has grouped together claims that include similar features. It is acknowledged that independent claim 1 and its dependent claims 2, 3, 11, 12 and 21 and independent claim 5 and its dependent claims 17-20 and 23 stand or

fall together. It is acknowledged that independent claim 4 and its dependent claims 13-16 and 22 and independent claim 6 and its dependent claims 7-9 and 24 stand or fall together. It is acknowledged that independent claim 25 and its dependent claims 26-31, independent claim 32, and independent claim 33 and its dependent claims 34-39 stand or fall together.

(8) ARGUMENT

For the following reasons, it is respectfully submitted that claims 1-39 are patentably distinguishable over the cited references, taken individually or together. With respect to the issues presented above, the question to be resolved is whether the asserted rejections are proper rejections under 35 U.S.C. § 103(a). Appellant respectfully submits that the asserted rejections are improper because the combination of the references cited by the Examiner fail to teach all the suggested claim features. Appellant provides below a discussion of the requirements for a *prima facie* case of obviousness under 35 U.S.C. § 103(a) and an application of these requirements to each claim.

Requirements for prima facie case of obviousness

As stated in the MPEP § 2143, three requirements must be met to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a). The requirements are: (1) the prior art must teach or suggest all the claim limitations, (2) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or combine reference teachings, and (3) there must be a reasonable expectation of success.

Appellant respectfully submits that at least the first requirement is not met by the asserted rejections. Therefore, Appellant examines this requirement in further detail.

All of the claim limitations must be taught or suggested

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d

981, 180 USPQ 580 (CCPA 1974). All words in a claim must be considered in judging the patentability of that claim against the prior art. *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

Regarding independent claims 1 and 5, these claims essentially recite permitting the user to select from at least three results viewing options including a viewing option displaying the one or more potential invitees that are available, a viewing option displaying the one or more potential invitees that are not available and a viewing option displaying the one or more potential invitees whose schedule could not be found, and then displaying the results according to the viewing option selected. Appellant respectfully submits that the Examiner has not established that this feature is taught by Hotaling.

The Examiner alleges in the Office Action mailed on April 15, 2003 that Hotaling teaches a system for scheduling time intervals including a "graphical user interface means permitting a user to view a list of the one or more potential invitees that are available, the one or more potential invitees that are not available, and the one or more potential invitees whose schedule could not be found (Fig. 11; col. 9, lines 50-53; col. 10, lines 1-10)" (see page 5, last paragraph). The Examiner acknowledges that "Hotaling et al. does not explicitly disclose that a user may select from at least three results viewing options including a viewing option displaying the one or more potential invitees that are available, a viewing option displaying the one or more potential invitees that are not available and a viewing option displaying the one or more potential invitees whose schedule could not be found, and then display the results according to the viewing option selected. However, Official Notice is taken [by the Examiner] that the display of filtered data base on a selected viewing option is old and well-known in the art of graphical user interfaces. Such a capability is commonly utilized to aid a user in focusing on specific subsets of data at a time, thereby making analysis of the data easier than if an excessively large amount of varying data were presented at once" (see pages 5 and 6 of the Office Action mailed on April 15, 2003).

Appellant respectfully disagrees with the Examiner's assessment that Hotaling et al. discloses presenting a view of a list of "those whose schedule could not be found" (see page 5 of the Office Action mailed on April 15, 2003). At best, Hotaling et al. discloses providing an "NP" designation to those invitees that indicate that they are "not participating in the Meeting Management service" (see col. 10, lines 3-5). A designation for invitees that respond indicating that they are not participating in a meeting is *not the same* as a designation that indicate "invitees whose schedules could not be found." Thus, Applicant respectfully submits that Hotaling et al. *does not* teach or suggest at least the claimed feature of "a viewing option displaying the one or more potential invitees whose schedule could not be found." Furthermore, Appellant respectfully submits that the Examiner's Official Notice "that the display of filtered data based on a selected viewing option is old and well-known in the art of graphical user interfaces" does not make up for this deficiency of Hotaling et al. As a result, Appellant respectfully submits that Hotaling et al. in view of the Office Notice taken by the Examiner remains deficient for at least not teaching or suggesting this feature of the claims.

Regarding independent claims 4 and 6, these claims recite a calendaring system and group calendaring, respectively, and are believed to be separately patentable from independent claims 1 and 5. Independent claims 4 and 6 essentially recite that the calendaring system permits the user to select from at least three results viewing options including a viewing option displaying the one or more potential invitees that are available, a viewing option displaying the one or more potential invitees that are not available and a viewing option displaying the one or more potential invitees whose schedule could not be found, and then displaying the results according to the viewing option selected. For the same reasons discussed above, Appellant respectfully submits that Hotaling et al. in view of the Office Notice taken by the Examiner remains deficient for at least not teaching or suggesting this feature.

Regarding independent claims 25, 32 and 33, these claims are believed to be separately patentable from independent claims 1, 4, 5, and 6. Independent claims 25, 32 and 33 essentially recite receiving event information from an event coordinator and presenting to the event coordinator a free time dialogue having display options including an option to display only the names of the invitees for which availability information could not be found, an option to display only the names of the invitees that were determined to be not busy between the start time and the end time on the date, and an option to display only the names of the invitees that were determined to be busy between the start time and the end time on the date. For the reasons discussed above, Appellant respectfully submits that Hotaling et al. in view of the Office Notice taken by the Examiner remains deficient for at least not teaching or suggesting this feature.

Claims 2, 3, 7, 8, 13, 14, 17, and 18 are believed to be patentable over the combination of Hotaling et al. in view of Tognazzini. Claims 2, 3, 7, 8, 13, 14, 17, and 18 depend from corresponding ones of independent claims 1, 4, 5, and 6. Arguments in support of the patentability of independent claims 1, 4, 5, and 6 over Hotaling et al. were presented above.

Regarding dependent claims 2, 3, 7, 8, 13, 14, 17, and 18, the Examiner acknowledges that Hotaling et al. does not teach or suggest "taking invitee and event location into account in order to determine invitee availability for a particular event" (see paragraph number 5 on page 9 of the Office Action dated April 15, 2003). Even if Tognazzini discloses this feature, the combination of Hotaling et al. and Tognazzini is deficient because these references do not teach or suggest the feature of independent claims 1 and 5 directed to permitting the user to select from at least three results viewing options including a viewing option displaying the one or more potential invitees that are available, a viewing option displaying the one or more potential invitees that are not available and a viewing option displaying the one or more potential invitees whose schedule could not be found, and then displaying the results according to the viewing option selected. Furthermore, the combination of Hotaling et al. and Tognazzini

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is deficient because these references do not teach or suggest the feature of independent claims 4 and 6 directed to a calendaring system that permits the user to select from at least three results viewing options including a viewing option displaying the one or more potential invitees that are available, a viewing option displaying the one or more potential invitees that are not available and a viewing option displaying the one or more potential invitees whose schedule could not be found, and then displaying the results according to the viewing option selected.

Based on the foregoing, it is respectfully submitted that independent claims 1, 4, 5, 6, 25, 32 and 33 are patentably distinguishable over the cited art, taken singularly or in combination, and that dependent claims 2, 3, 7-24, 26-31, and 34-39 are believed to be allowable at least by virtue of their dependency from corresponding independent claims 1, 4, 5, 6, 25, 32, and 33. Because the references relied upon by the Examiner, either alone or in combination with one another, fail to disclose, teach or suggest all of the features of the claims as set forth above, Appellant respectfully requests that the rejection of each of pending claims 1-39 under 35 U.S.C. §103(a) be reversed.

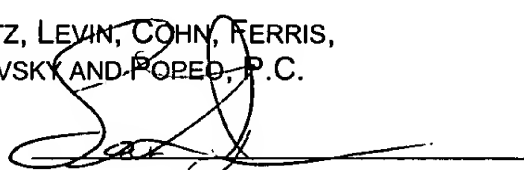
The present Brief on Appeal is being filed in triplicate.

Respectfully submitted,

MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND PORED, P.C.

Dated: January 15, 2004

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APPENDIX A – PENDING CLAIMS

1. **(Currently Amended)** A system for scheduling time intervals for a plurality of invitees in a networked environment comprising:

database means for storing one or more invitee profiles for one or more potential invitees of the system, the one or more invitee profiles comprising user profiles wherein each user profile comprises information regarding available and unavailable times for ~~that~~ a corresponding user, the database means being located at one or more server locations;

request generating means, located remotely from the server locations, for generating a request for allocation of a time interval for the one or more potential invitees;

busy time determination means for gathering the invitee profiles for the one or more potential invitees and determining whether each of the one or more potential invitees is available during the time interval requested by the request generating means; and

graphical user interface means associated with the request generating means for displaying results from the busy time determination means, the graphical user interface means permitting ~~a~~ the user to select from at least three results viewing options including a viewing option displaying the one or more potential invitees that are available, a viewing option displaying the one or more potential invitees that are not available and a viewing option displaying the one or

more potential invitees whose schedule could not be found, and then displaying the results according to the viewing option selected.

2. **(Currently Amended)** The system of claim 1 wherein the user profile stores information on the user's location; and

wherein the busy time determination means takes into account the location of the a requested event and the user's location when determining that the corresponding user's busy time.

3. **(Currently Amended)** The system of claim 2 wherein the busy time determination ~~unit~~ means determines travel time if the locations of the requested event and the corresponding user differ and considers ~~that the~~ travel time when determining if the corresponding user is available at the requested time interval.

4. **(Currently Amended)** A system for scheduling time intervals for a plurality of invitees comprising:

one or more databases which store one or more invitee profiles for one or more potential invitees of the system, the one or more invitee profiles comprising user profiles, wherein each user profile comprises information regarding available and unavailable times for ~~that a~~ corresponding user, the databases being located at one or more servers;

one or more user client systems connected over a network to the one or more servers operating a calendaring system which enables ~~a~~the user to request allocation of a time interval for the one or more potential invitees;

wherein the calendaring system gathers the one or more invitee profiles for each of the one or more potential invitees and determines whether each of the one or more potential invitees is available during the requested time interval; and

wherein the calendaring system permits the user to select from at least three results viewing options including a viewing option displaying the one or more potential invitees that are available, a viewing option displaying the one or more potential invitees that are not available and a viewing option displaying the one or more potential invitees whose schedule could not be found, and then displays the results according to the viewing option selected.

5. (Currently Amended) A process for scheduling time intervals for a plurality of invitees comprising:

storing one or more invitee profiles for one or more potential invitees ~~of the system~~, the one or more invitee profiles comprising user profiles wherein each user profile comprises information regarding available and unavailable times for ~~that~~ a corresponding user;

receiving a request for allocation of a time interval for the one or more potential invitees;

gathering the invitee profiles for the one or more potential invitees;
determining whether the potential invitees are available during the requested time interval; and
displaying results by permitting a the user to select from at least three results viewing options including a viewing option displaying the one or more potential invitees that are available, a viewing option displaying the one or more potential invitees that are not available and a viewing option displaying the one or more potential invitees whose schedule could not be found, and then displaying the results according to the viewing option selected.

6. **(Currently Amended)** A processor usable medium having processor readable code embodied therein for enabling group calendaring between a plurality of users on a system, the system comprising one or more databases, associated with one or more servers, which stores one or more invitee profiles for one or more potential invitees of the system, the one or more invitee profiles comprising user profiles, wherein each user profile comprises information regarding available and unavailable times for ~~that~~ a corresponding user, the processor readable code in the processor usable medium comprising:

processor readable code for causing a processor to receive a request for allocation of a time interval for the one or more potential invitees;

processor readable code for causing a processor to gather the one or more invitee profiles for the one or more potential invitees;

processor readable code for causing a processor to determine whether the one or more potential invitees are available during the requested time interval; and

processor readable code for causing a processor to display results by permitting a the user to select from at least three results viewing options including a viewing option displaying ~~these~~ the one or more potential invitees that are available, a viewing option displaying ~~these~~ the one or more potential invitees that are not available and a viewing option displaying ~~these~~ the one or more potential invitees whose schedule could not be found, and then displaying the results according to the viewing option selected.

7. **(Currently Amended)** The processor usable medium of claim 6, further comprising processor readable code for taking into account ~~the~~ a location of ~~the~~ a requested event and the user's location when determining ~~that~~ the user's busy time.

8. **(Currently Amended)** The processor usable medium of claim 6, further comprising processor readable code for determining travel time if the locations of the requested event and the user differ and considers ~~that~~ the travel time when determining if the user is available at the requested time interval.

9. **(Currently Amended)** The processor usable medium of claim 6, further comprising processor readable code for taking into account the user's work hours and non-work hours when determining ~~that~~the user's available and unavailable times.

10. **(Previously Amended)** The processor usable medium of claim 6, further comprising processor readable code for assigning values to one or more characteristics and processor readable code for taking into account the values assigned when determining the user's availability.

11. **(Currently Amended)** The system of claim 1, wherein the user profile stores information on the user's work hours and non-work hours; and wherein the ~~calendar~~calendar-system takes into account the user's work hours and non-work hours when determining ~~that~~the user's available and unavailable times.

12. **(Currently Amended)** The system of claim 1, wherein the ~~calendar~~calendar-system assigns values to one or more characteristics; and wherein the ~~calendar~~calendar-system takes into account the values assigned when determining the user's availability.

13. **(Currently Amended)** The system of claim 4, wherein the user profile stores information on the user's location; and wherein the calendaring system takes into account ~~the~~a location of ~~the~~a requested event and the user's location when determining that the user's busy time.

14. **(Currently Amended)** The system of claim 4, wherein the calendaring system determines travel time if the locations of the requested event and the user differ and considers that the travel time when determining if the user is available at the requested time interval.

15. **(Currently Amended)** The system of claim 4, wherein the user profile stores information on the user's work hours and non-work hours; and wherein the calendaring system takes into account the user's work hours and non-work hours when determining that the user's available and unavailable times.

16. **(Previously Added)** The system of claim 4, wherein the calendaring system assigns values to one or more characteristics; and wherein the calendaring system takes into account the values assigned when determining the user's availability.

17. **(Currently Amended)** The process of claim 5, further comprising the step of taking into account ~~the~~ a location of ~~the~~ a requested event and the user's location when determining ~~that~~ the user's busy time.

18. **(Currently Amended)** The system of claim 5, further comprising the step of determining travel time if the locations of the requested event and the user differ and considering ~~that~~ the travel time when determining if the user is available at the requested time interval.

19. **(Currently Amended)** The system of claim 5, further comprising the step of taking into account the user's work hours and non-work hours when determining ~~that~~ the user's available and unavailable times.

20. **(Previously Added)** The system of claim 5, further comprising the step of assigning values to one or more characteristics and taking into account the values assigned when determining the user's availability.

21. **(Previously Added)** The system of claim 1, further comprising best fit determining means for determining whether any of the one or more potential invitees are unavailable during the time interval requested by the request generating means and for determining a next best time interval using a weighting

function if it is determined that any of the one or more potential invitees are unavailable during the requested time interval.

22. **(Previously Added)** The system of claim 4, wherein the calendaring system determines whether any of the one or more potential invitees are unavailable during the requested time interval and determines a next best time interval using a weighting function if it is determined that any of the one or more potential invitees are unavailable during the requested time interval.

23. **(Previously Added)** The process of claim 5, further comprising the steps of:

determining whether any of the one or more potential invitees are unavailable during the requested time interval; and

determining a next best time interval using a weighting function if it is determined that any of the one or more potential invitees are unavailable during the requested time interval.

24. **(Previously Added)** The processor usable medium of claim 6, further comprising processor readable code for determining whether any of the one or more potential invitees are unavailable during the requested time interval and for determining a next best time interval using a weighting function if it is

determined that any of the one or more potential invitees are unavailable during the requested time interval.

25. **(Currently Amended)** A computer implemented method, comprising the steps of:

receiving from an event coordinator event information for scheduling an event, the event information specifying a list of invitees, a date, a start time, and an end time and/or a duration which determines said end time;

receiving invitee availability information for one or more of said invitees, wherein said availability information is used in determining which of said one or more invitees, if any, are not busy between said start time and said end time on said date;

presenting to the event coordinator a free time dialogue for displaying information regarding the availability of said invitees, wherein

said free time dialogue comprises:

a selection portion for enabling the event coordinator to select one display option from a set of display options, wherein said set of display options comprises an option to display only the names of the invitees for which availability information could not be found, an option to display only the names of the invitees that were determined to be not busy between said start time and said end time on said date, and an option to display only the names of the invitees

that were determined to be busy between said start time and said end time on said date; and

a listing portion for listing zero or more invitee names based on the display option selected by the coordinator.

26. **(Previously Added)** The method of claim 25, wherein said free time dialogue further comprises a results portion for displaying the number of invitees that are not busy between said start time and said end time on said date.

27. **(Previously Added)** The method of claim 25, wherein said free time dialogue further comprises a results portion for displaying the number of invitees that are busy between said start time and said end time on said date.

28. **(Previously Added)** The method of claim 25, wherein said free time dialogue further comprises a results portion for displaying the number of invitees for which availability information could not be found.

29. **(Previously Added)** The method of claim 25, further comprising the step of determining one or more alternative start times for holding said event.

30. **(Previously Added)** The method of claim 29, wherein the step of determining one or more alternative start times for holding said event comprises

the step of using a best fit algorithm to determine said one or more alternative start times.

31. **(Previously Added)** The method of claim 29, wherein said free time dialogue further comprises a recommended event time portion for displaying said one or more alternative start times.

32. **(Currently Amended)** A computer readable medium, having encoded thereon a computer program operative to perform the method comprising:

receiving from an event coordinator event information for scheduling an event, the event information specifying a list of invitees, a date, a start time, and an end time and/or a duration which determines said end time;

receiving invitee availability information for one or more of said invitees, wherein said availability information is used in determining which of said one or more invitees, if any, are not busy between said start time and said end time on said date; and

presenting to the event coordinator a free time dialogue for displaying information regarding the availability of said invitees, wherein said free time dialogue comprises:

a selection portion for enabling the event coordinator to select one display option from a set of display options, wherein said set of display options

comprises an option to display only the names of the invitees for which availability information could not be found, an option to display only the names of the invitees that were determined to be not busy between said start time and said end time on said date, and an option to display only the names of the invitees that were determined to be busy between said start time and said end time on said date; and

a listing portion for listing zero or more invitee names based on the display option selected by the coordinator.

33. (Currently Amended) A system, comprising:

means for receiving from an event coordinator event information for scheduling an event, the event information specifying a list of invitees, a date, a start time, and an end time and/or a duration which determines said end time;

means for receiving invitee availability information for one or more of said invitees, wherein said availability information is used in determining which of said one or more invitees, if any, are not busy between said start time and said end time on said date;

means for presenting to the event coordinator a free time dialogue for displaying information regarding the availability of said invitees, wherein

said free time dialogue comprises:

a selection portion for enabling the event coordinator to select one display option from a set of display options, wherein said set of display

options comprises an option to display only the names of the invitees for which availability information could not be found, an option to display only the names of the invitees that were determined to be not busy between said start time and said end time on said date, and an option to display only the names of the invitees that were determined to be busy between said start time and said end time on said date; and

a listing portion for listing zero or more invitee names based on the display option selected by the coordinator.

34. **(Previously Added)** The system of claim 33, wherein said free time dialogue further comprises a results portion for displaying the number of invitees that are not busy between said start time and said end time on said date.

35. **(Previously Added)** The system of claim 33, wherein said free time dialogue further comprises a results portion for displaying the number of invitees that are busy between said start time and said end time on said date.

36. **(Previously Added)** The system of claim 33, wherein said free time dialogue further comprises a results portion for displaying the number of invitees for which availability information could not be found.

37. **(Previously Added)** The system of claim 33, further comprising means for determining one or more alternative start times for holding said event.

38. **(Previously Added)** The system of claim 37, wherein the step of determining one or more alternative start times for holding said event is configured to use a best fit algorithm to determine said one or more alternative start times.

39. **(Previously Added)** The system of claim 37, wherein said free time dialogue further comprises a recommended event time portion for displaying said one or more alternative start times.

RES 103685v1